



DECLARATION FOR PATENT APPLICATION

As the below-named inventors, we hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **METHODS FOR HOMOLOGY-DRIVEN REASSEMBLY OF NUCLEIC ACID SEQUENCES**, the specification of which

\_\_\_\_\_ is attached hereto as Attorney Docket No. \_\_\_\_\_).

X was filed on January 31, 2001  
as Application Serial No. 09/775,049  
(Attorney Docket No. P-LG 4412)

and was amended on (or amended through) \_\_\_\_\_.  
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above.

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to myself to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56.

Under Sec. 1.56, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and (1) It establishes, by itself or in combination with other information,

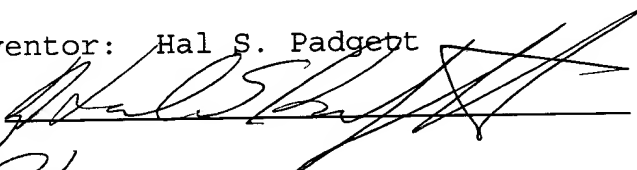


Inventors: Padgett et al.  
Serial No.: 09/775,049  
Filed: January 31, 2001  
Page 2

a prima facie case of unpatentability of a claim; or (2) It refutes, or is inconsistent with, a position the applicant takes in: (a) Opposing an argument of unpatentability relied on by the U.S. Patent and Trademark Office, or (b) Asserting an argument of patentability.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Hal S. Padgett

Inventor's signature: 

Date: 3/23/01

Residence: Vacaville, California

Citizenship: United States of America

Post Office Address: 638 Blossom Oak Court  
Vacaville, California 95687



Inventors: Padgett et al.  
Serial No.: 09/775,049  
Filed: January 31, 2001  
Page 3

Full name of second inventor: Wayne P. Fitzmaurice

Inventor's signature: Wayne P. Fitzmaurice

Date: 3/23/01

Residence: Vacaville, California

Citizenship: United States of America

Post Office Address: 1218 Las Encinas Court  
Vacaville, California 95687

Full name of third inventor: John A. Lindbo

Inventor's signature: John A. Lindbo

Date: 3/23/01

Residence: Vacaville, California

Citizenship: United States of America

Post Office Address: 143 Sundance Drive  
Vacaville, California 95688



STATEMENT UNDER 37 C.F.R. § 3.73(b)

Title of Application: METHODS FOR HOMOLOGY-DRIVEN REASSEMBLY  
OF NUCLEIC ACID SEQUENCES

Application Ser. No.: 09/775,049

Filed: January 31, 2001

Inventor(s): Padgett et al.

Attorney Docket No.: P-LG 4412

LARGE SCALE BIOLOGY, a CORPORATION, states that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventors of the application. A copy of the executed assignment, submitted for recording, is attached hereto as documentary evidence of the chain of title to the assignee.

The undersigned is empowered to sign this statement on behalf of the assignee.

Date:

4/3/01

Signature:

Thomas Gallegos

Name:

Thomas R. Gallegos

Title:

Director, Intellectual Property



PATENT

Our Docket: P-LG 4412

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: )  
Padgett et al. )  
Serial No. 09/775,049 )  
Filed: January 31, 2001 )  
For: METHODS FOR HOMOLOGY- )  
DRIVEN REASSEMBLY OF )  
NUCLEIC ACID SEQUENCES )

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Commissioner for Patents  
Washington, D.C. 20231

Sir:

**SMALL ENTITY STATEMENT**

The U.S. Patent and Trademark (USPTO) permits parties that establish status as a Small Entity to pay certain reduced fees (all citations to 37 C.F.R. § 1.27 except as noted). To be entitled to Small Entity Status, a party must be at least one of the following:

**(1) Individual person:**

An individual person, including an inventor and persons to whom an inventor has transferred some rights in the invention. § 1.27(a)(1).

**(2) Small business concern:**

A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

"Business concern" means individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative. If the concern is a joint

Inventors: Padgett et al.  
Serial No.: 09/775,049  
Filed: January 31, 2001  
Page 2

venture, participation by foreign business entities may not be more than 49%. 13 C.F.R. § 121.105.

The "number of employees" is the average number of employees, including the employees of its domestic and foreign affiliates, based on numbers of employees for each of the pay periods for the preceding completed 12 calendar months.

"Employees" includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number of employees for each of the pay periods it has been in business. 13 C.F.R. § 121.106.

Concerns are "affiliates" of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13 C.F.R. § 121.103(a).

### **(3) Nonprofit organization:**

A university or other institution of higher education located in any country. § 1.27(a)(3)(ii)(A).

An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B),(D).

A nonprofit scientific or educational organization qualified under a nonprofit organization statute of a U.S. state. Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(C),(D).

Inventors: Padgett et al.  
Serial No.: 09/775,049  
Filed: January 31, 2001  
Page 3

Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status. § 1.27(a)(4).

I hereby assert that I am empowered to sign on behalf of the party identified below ("Party"). Persons empowered to sign include an inventor him- or herself or an authorized officer of the assignee, where the assignee has at least an undivided part interest in the application or patent. § 1.27(c)(2).

I have made a determination of the Party's entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

I hereby assert that the Party has not assigned, granted, conveyed or licensed--and is under no obligation under contract or law to do so--any rights in the invention to any other party that would not qualify as a Small Entity. If the rights in the invention held by the Party are not exclusive, each party having rights in the invention is listed below:

None

Separate assertions of Small Entity Status should be obtained from each party having rights to the invention.

Inventors: Padgett et al.  
Serial No.: 09/775,049  
Filed: January 31, 2001  
Page 4

I hereby assert that the Party is entitled to be accorded Small Entity Status by the USPTO for the application or patent identified above. § 1.27(c)(1).

I understand that Small Entity Status must be newly determined when the issue fee and each maintenance fee is due. If there is any change resulting in loss of entitlement to Small Entity Status, I acknowledge the duty to file a notification to the USPTO in this application or patent before or upon paying the fee. § 1.27(g).

I understand that Small Entity Status must be separately established in any related application, including continuation, divisional, continuation-in-part, continued prosecution application or reissue application. § 1.27(c)(4).

I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of the application or jeopardize the validity and enforceability of any resulting patent. § 1.27(h).

1/3/01

Date

Thomas Gallegos

Name: Thomas Gallegos

Title: Director, Intellectual Property

LARGE SCALE BIOLOGY CORPORATION  
3333 Vaca Valley Parkway  
Suite 1000  
Vacaville, California 95688





**POWER OF ATTORNEY FOR PATENT APPLICATION BY ASSIGNEE**

Assignee LARGE SCALE BIOLOGY CORPORATION is the owner of the entire right, title and interest of U.S. patent application Ser. No. 09/775,049, filed on January 31, 2001, as attorney docket number P-LG 4412, and entitled METHODS FOR HOMOLOGY-DRIVEN REASSEMBLY OF NUCLEIC ACID SEQUENCES, and any subsequently filed divisional, continuation, continuation-in-part or reissue application, including international and foreign applications claiming priority thereto.

The Assignee hereby appoints the following attorneys to prosecute these applications and to transact all related business in the United States Patent and Trademark Office and any international and foreign patent offices:

CATHRYN CAMPBELL, Registration No. 31,815; DAVID A. GAY, Registration No. 39,200; CALVIN A. FAN, Registration No. 38,444; ROBERT T. RAMOS, Registration No. 37,915; ANDREA L. GASHLER, Registration No. 41,029; JAMES J. WONG, Registration No. 34,949; DEBORAH L. CADENA, Registration No. 44,048; MELANIE K. WEBSTER, Registration No. 45,201; and Thomas R. Gallegos, Registration No. 32,692.

Please direct all telephone calls to Cathryn Campbell at (858) 535-9001 and address all correspondence to:

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San Diego, California 92122  
USPTO CUSTOMER NO. 23601

Inventors: Padgett et al.  
Serial No.: 09/775,049  
Filed: January 31, 2001  
Page 2

The undersigned is authorized to sign on behalf of the  
Assignee.

Signature:

Thomas R. Gallegos

Name (typed):

Thomas R. Gallegos

Title:

Director, Intellectual Property

Assignee:

Large Scale Biology Corporation

Date:

April 3, 2001